



City Manager's Report
Submitted by Stephen Jenkins, Chief of Police
Item Number: 23-390
November 28, 2023

Title: School Bus Video-Monitoring Systems

Issue:

- **Adoption of an ordinance to amend Chapter 22 (Motor Vehicles and Traffic) of the Code of the City of Portsmouth, Virginia by adding a new Article XVIII authorizing the use of school bus video-monitoring systems to enforce the prohibition on passing stopped school buses.**

Background:

- Section 46.2-844 of the Virginia Code allows localities to authorize school divisions to install video-monitoring systems for the purpose of enforcing the requirement that motorists not pass stopped school buses that are taking on or discharging passengers.
- The ordinance proposed for Council consideration amends the Portsmouth Code to authorize Portsmouth Public Schools to utilize such systems.

Discussion:

- Under the structure established by the Virginia Code, Portsmouth Public Schools will be authorized to contract with a private company to administer a video-monitoring systems on school buses, which will include installing cameras on buses and issuing a summons imposing a civil fine on vehicle operators who violate the prohibition on passing stopped school buses.
- The amount of the civil fine will be \$250.

Financial Impact:

- Portsmouth Public Schools will receive the net revenues from the program.

Recommended Action:

- Adoption of the ordinance.

Next Steps Following Council Action:

- Portsmouth Public Schools, with the assistance of the Portsmouth Police Department, will take the steps it deems appropriate to implement the program.

Attachments:

- Ordinance
- Exhibit A


Interim City Manager

EXHIBIT A

ARTICLE XVIII. – SCHOOL BUS VIDEO-MONITORING SYSTEM ENFORCEMENT.

Sec. 22-851. – Legal authority.

This article is adopted pursuant to the authority of Code of Virginia, § 46.2-844.

Sec. 22-852. - Passing stopped school buses and school bus video-monitoring systems,

- (a) The driver of a motor vehicle approaching from any direction a clearly marked school bus that is stopped on any highway, private road, or school driveway for the purpose of taking on or discharging children, elderly individuals, or individuals with mental or physical disabilities, who, in violation of Code of Virginia, § 46.2-859, fails to stop and remain stopped until all such individuals are clear of the highway, private road, or school driveway and the bus is put in motion is subject to a civil penalty of \$250, payable to the City of Portsmouth for the benefit of Portsmouth Public Schools, and any prosecution shall be instituted and conducted in the same manner as prosecutions for traffic infractions.
- (b) A prosecution or proceeding under Code of Virginia, § 46.2-859 is a bar to a prosecution or proceeding under this section for the same act, and a prosecution or proceeding under this section is a bar to a prosecution or proceeding under Code of Virginia, § 46.2-859 for the same act.
- (c) In any prosecution for which a summons charging a violation of this section was issued within 30 business days of the alleged violation, proof that the motor vehicle described in the summons was operated in violation of this section, together with proof that the defendant was at the time of such violation the registered owner of the vehicle, as required by Chapter 6 (§ 46.2-600 et seq.) of the Code of Virginia, shall give rise to a rebuttable presumption that the registered owner of the vehicle was the person who operated the vehicle at the place where, and for the time during which, the violation occurred. Such presumption shall be rebutted if (i) the owner of the vehicle files an affidavit by regular mail with the clerk of the Portsmouth General District Court that they were not the operator of the vehicle at the time of the alleged violation, (ii) the owner testifies in open court under oath that they were not the operator of the vehicle at the time of the alleged violation, or (iii) a certified copy of a police report showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation of this section is presented prior to the return date established on the summons issued pursuant to this section to the court adjudicating the alleged violation. Nothing herein shall limit the admission of otherwise admissible evidence.
- (d) The testimony of the school bus driver, the supervisor of school buses, or a law-enforcement officer that the vehicle was yellow, conspicuously marked as a school bus, and equipped with warning devices as prescribed in Code of Virginia, § 46.2-1090 is prima facie evidence that the vehicle is a school bus.

- (e) Recorded images from a video-monitoring system that show the bus was stopped with at least one warning device prescribed in Code of Virginia, § 46.2-1090 activated shall be considered prima facie evidence that the bus was stopped for the purpose of taking on or discharging children, elderly individuals, or individuals with mental or physical disabilities.
- (f) For purposes of this section "video-monitoring system" means a system with one or more camera sensors and computers installed and operated on a school bus that produces live digital and recording video of motor vehicles being operated in violation of this section and Code of Virginia, § 46.2-859. All such systems installed shall, at minimum, produce a recorded image of the license plate and shall record the activation status of at least one warning device as prescribed in Code of Virginia, § 46.2-1090 and the time, date, and location of the vehicle when the image is recorded.
- (g) Portsmouth Public Schools is authorized to install and operate a video-monitoring system in or on the school buses it operates or may contract with a private vendor to do so on its behalf for the purpose of recording violations of the preceding subsections.
 - (1) A summons for such violations may be executed as provided in Code of Virginia, § 19.2-76.2 and, notwithstanding the provisions of Code of Virginia, § 19.2-76 the summons may be executed by mailing by first-class mail a copy thereof to the address of the owner of the vehicle contained in the records of the Department of Motor Vehicles. Every such mailing shall include, in addition to the summons, a notice of (i) the summoned person's ability to rebut the presumption that they were the operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided in subsection (c) and (ii) instructions for filing such an affidavit, including the address to which the affidavit is to be sent. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in Code of Virginia, § 19.2-76.3. No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for failure to appear on the return date of the summons. Any summons executed for violation of this section shall provide to the person summoned at least 30 business days from the mailing of the summons to inspect information collected by a video-monitoring system in connection with the violation.
 - (2) Any private vendor contracting with Portsmouth Public Schools pursuant to this subsection may impose and collect an administrative fee in addition to the civil penalty imposed for a violation of subsection (a) and payable pursuant to this subsection, so as to recover the expenses of collecting any unpaid civil penalty when such penalty remains due more than 30 days after the date of the mailing of the summons and notice. The administrative fee shall be reasonably related to the actual cost of collecting the civil penalty and shall not exceed \$ 100 per violation. The operator of the vehicle shall pay the unpaid civil penalty and any administrative fee detailed in a notice or citation issued by the private vendor. If paid no later than 60 days after the date of the mailing of the summons and notice, the administrative fee shall not exceed \$25.
 - (3) Any private vendor contracting with Portsmouth Public Schools pursuant to this subsection may enter into an agreement with the Department of Motor Vehicles, in accordance with the provisions of Code of Virginia, § 46.2-208(B)(30) to obtain vehicle owner information regarding the registered owners of vehicles

that improperly pass stopped school buses. Information provided to such private vendor shall be protected in a database with security comparable to that of the Department of Motor Vehicles' system and used only for enforcement against individuals who violate the provisions of this section. Portsmouth Public Schools shall annually certify compliance with this subsection and make all records pertaining to such system available for inspection and audit by the Commissioner of Highways or the Commissioner of the Department of Motor Vehicles or their designee. Any person who discloses personal information in violation of the provisions of this subsection shall be subject to a civil penalty of \$1,000 per disclosure. Any unauthorized use or disclosure of such personal information shall be grounds for termination of the agreement between the Department of Motor Vehicles and the private vendor.